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Common Carrier Bureau of the
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Federal Communications Commission
Office of Secretary

In the Matter of MAY 17 1999)

Maine Public Utilities Commission)
Petition for Additional Authority)
to Implement Number Conservation)
Measures)

File No. NSD L-99-27
DA 99-638

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Common Carrier Bureau
Network Service Division
Office of the Chief

**MAINE PUBLIC UTILITIES COMMISSION'S
REPLY COMMENTS IN SUPPORT OF ITS PETITION FOR ADDITIONAL
AUTHORITY TO IMPLEMENT NUMBER CONSERVATION MEASURES**

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List A B C D E

Contrary to the arguments of the parties filing comments in opposition (Opposing Commenters) to the Maine Public Utilities Commission's (MPUC) Petition for Additional Delegated Authority to Implement Number Conservation Measures (Petition), the facts before the Common Carrier Bureau (CCB) reveal that: (1) the MPUC's involvement in numbering issues has positively impacted both the Industry and the public by avoiding the implementation of an unnecessary area code and extending the life of the existing NPA by more than a year and a half; (2) none of the MPUC's proposed conservation measures will negatively impact the North American Numbering Plan (NANP) or any national numbering policies; and (3) existing number utilization and assignment guidelines are inadequate and have not been followed or enforced by the Industry. The CCB should see the Opposing Commenters' arguments for what they are -- the self-serving complaints of firms unwilling to implement creative solutions to their inefficient use of numbering resources and indifference to the hardships their wasteful conduct imposes on consumers -- and grant the MPUC's Petition.

I. GRANTING THE MPUC ADDITIONAL AUTHORITY WILL BENEFIT BOTH THE PUBLIC AND THE INDUSTRY

The Opposing Commenters argue that states should be limited to implementing area code relief because their involvement in other number administration issues will not be effective and that it is too late to preserve 207 as Maine's only NPA. A review of the pertinent facts, however, suggests a much different conclusion.

A. The current exhaust forecast is inaccurate.

In April of 1998, the North American Numbering Plan Administrator (NANPA), relying on a central office code utilization study (COCUS) forecast conducted

by Bell Atlantic (as numbering administrator), informed the MPUC that the 207 area code would exhaust in July of 2000. Three months later, NANPA submitted a plan on behalf of the Maine telephone industry which called for implementation of the new code to begin in July of 1999. On October 1, 1998, pursuant to its Investigation into Area Code Relief, Docket No. 98-634, the MPUC held a technical conference and learned that the July 2000 forecast was based upon questionable assumptions and limited data, only 8 of 32 code holders having submitted COCUS forecasts. Accordingly, the MPUC did not move to implement a new area code and instead ordered all Maine code holders to participate in the 1999 nationwide COCUS conducted by NANPA.

NANPA has now completed its survey and is expected to publish the results during the last week of May. The MPUC expects, based upon its own review of the 1999 COCUS submissions and analysis of market trends, that the new forecast will extend the projected exhaust date for the 207 NPA by several years. The MPUC already knows that almost every Maine code holder submitted a COCUS forecast -- a substantial change from the 1998 COCUS when only 25% of the code holders submitted a forecast. **This increased participation is a direct result of the MPUC's involvement in the process** and will substantially improve the accuracy of NANPA's forecast.

Thus, pending confirmation by NANPA's forecast, it appears that if the MPUC had acted based upon the faulty 1998 forecast, Maine citizens and businesses would already be incurring the costs and inconveniences of implementing an unnecessary new area code and another 10 million phone numbers would be dedicated to a state which already has 5.7 million unused numbers.

B. In less than six months, the MPUC has already saved over 75 codes.

In October of 1998, upon direction and encouragement from the MPUC, the Maine Industry Task Force submitted a Thousand Block Administration and Conservation Plan (Task Force Plan) which requires carriers to: (a) submit thousands block number utilization reports every six months; (b) set aside in a holding category all vacant thousands blocks; and (c) request an additional NXX only when there is insufficient inventory to meet six months of projected demand. Pursuant to the Task Force Plan, and with follow-up by MPUC staff, 32 of 33 code holders in the 207 NPA submitted their number utilization data in October of 1998 and April of 1999. Based upon this information, the MPUC will be conducting teleconferences with individual carriers to work with them to increase their numbering efficiencies.

Consistent with the policies of the Task Force Plan, the MPUC has been asking new entrants to request only those codes that they reasonably anticipate needing within the next 6 months. New entrants have been cooperative, and this process has already resulted in **new entrants voluntarily reducing their anticipated code requests by approximately 75 codes.** Assuming that codes are requested at a rate of 4-5 per month in Maine,¹ the MPUC's involvement has extended the life of the NPA by as much as a year and a half. This is an extremely impressive result and should not be dismissed as "incremental" as suggested by MCI. (See Comments of MCI at p. 6.)

¹ Codes have actually been requested at a rate of 1.7 per month, but for the purposes of this example we assumed a more robust demand.

C. If the CCB acts immediately, the MPUC will be able to effectuate meaningful conservation within the 207 NPA.

It is essential that the CCB grant relief as soon as possible because it will take several months to implement many of the proposed conservation measures. Specifically, an MPUC rulemaking will be necessary to promulgate final number assignment and utilization standards and will take at least three months to complete. With regard to thousand block pooling, while the MPUC already has obtained detailed number utilization information at the thousand block level, it will still take up to six months to get the pooling system up and running. Finally, with regard to unassigned number porting, it will take some time to establish a protocol for its use.

The Opposing Commenters urge the CCB to deny the MPUC's Petition because they believe it is too late to save the 207 NPA.² However, as discussed above, the MPUC has a "window of opportunity" before it needs to begin the process of implementing a new area code. If authority is granted immediately and code conservation measures are implemented by the end of this year (as described above), there is a substantial chance that the exhaust date of the 207 NPA can be pushed back even further. If the exhaust date is pushed back, there is a realistic chance that any national solution implemented within the next year could also impact the exhaust date and perhaps postpone exhaust for several more years, if not indefinitely. This is an

² They also suggest that the MPUC should be implementing rate center consolidation and inconsistent rate centers. However, the Opposing Commenters are well aware that both of these measures are best used with new NPAs and that both will have a substantial impact on calling areas, toll revenues, and cost recovery (especially in a high cost state like Maine).

opportunity to save consumers the substantial inconvenience and cost of a new area code that both the MPUC and the Commission should embrace.

II. GRANTING THE MPUC THE AUTHORITY IT HAS REQUESTED WILL NOT JEOPARDIZE THE INTEGRITY OF THE NANP NOR NATIONAL NUMBERING POLICIES

The Opposing Commenters, and the Industry in general, argue that national uniform numbering policies must be maintained at all costs. While the MPUC does not disagree that national uniformity would be optimal, the facts suggest that we may be years away from actual implementation of national numbering rules and that in the meantime the entire NANP is in danger of exhausting. The MPUC, which has already proven itself to be an effective, responsible partner in number administration issues, should be given authority to implement number conservation measures which are consistent with current national policies and which do not compromise the integrity of the NANP.

A. None of the MPUC's proposals will negatively impact the NANP; all of the proposals are consistent with current or anticipated national numbering policies and will be applied in a competitively-neutral manner.

The number utilization and assignment standards proposed by the MPUC will have absolutely no impact upon the NANP, other than to conserve resources and extend the life of the NANP. In addition, neither thousand block pooling nor unassigned number porting (UNP) impacts the integrity of the NANP -- the Opposing Commenters' suggestions otherwise are mere rhetoric. The MPUC recognizes the importance of preserving the integrity of the NANP and has no intention of promulgating any measures which might negatively impact it.

Wireless carriers' express concerns regarding the competitive neutrality of the MPUC's proposals. The MPUC, however, will ensure that non-LNP capable carriers (which includes both wireless carriers and many of Maine's small independent telephone carriers) have access to sufficient numbering resources. While these carriers cannot, and will not be expected to, participate in pooling and porting solutions, they will be expected to comply with the number utilization and assignment standards (as they are currently required to comply with the Central Office Code Administration Guidelines).

Neither will the MPUC compromise national uniformity. All of the measures proposed by the MPUC are already the subject of national protocols, guidelines, or policies. Specifically, the number utilization and assignment standards set forth in the MPUC's Petition are merely mandatory versions of existing Industry Numbering Committee (INC) guidelines or similar to proposals already made to NANC by NANPA.³ For instance, the MPUC has proposed a six-month exhaust standard -- carriers would be allowed to request only those numbering resources they anticipate needing within the next six months. This policy is consistent with the jeopardy procedures under the current Central Office Code Administration Guidelines (§ 8.4) as well as with the Maine Task Force Plan. To ensure compliance with the standard, the MPUC would require carriers to provide the MPUC with a copy of their Months to Exhaust Worksheet for each additional code requested in a given rate center. (Under section 4.2.1 of the current Guidelines, this worksheet is only provided to NANPA.) The

³ See Central Office Code Administration Guidelines, §§ 2.4, 2.9, 3.2, 3.5, 4.13, 6.3.3, 7.1, and 8.2.

MPUC would review the worksheet to ensure that it is factually accurate and based upon reasonably supported assumptions. Thus, while the policy would involve two new standards, in reality the MPUC would only be enforcing what the Industry has already said should be occurring under the Guidelines and the Maine Task Force Plan.

Several Opposing Commenters objected on the grounds that fill rates do not provide the Industry with sufficient flexibility to meet their business needs. In fact, the MPUC would propose that general fill rates be set and would then establish a procedure whereby individual carriers, upon a showing of actual need, could obtain a waiver of the standard. Under this approach, carriers would still have access to resources they need but would also be under an obligation to make more of an effort to use their existing resources efficiently. Administratively, this would require nothing more than an additional section on the Months to Exhaust Worksheet (already required under the Guidelines) in which the carrier would indicate its fill rate for that rate center. This information could then be verified by the MPUC with existing number utilization data.

There are already *de facto* national protocols for thousand block pooling. See, INC Thousand Block Pooling Guidelines (Jan. 1999). The fact that the FCC has not officially adopted these Guidelines should not preclude states from applying them. Indeed, the FCC never officially adopted the Central Office Code Administration Guidelines, yet they are considered the governing policies for central office code administration. The MPUC pledges to work with the Industry and the FCC to ensure that any pooling procedures it adopts will be similar, if not identical, to the national

protocols and that potential transition costs between interim and final measures will be kept to a minimum.

Finally, as MCI has already pointed out in numerous federal and state proceedings, interim unassigned number porting using current ordering systems and LNP is feasible today. While this procedure may not be practical for large scale needs, it does provide a viable method for handling limited needs in a limited number of rate centers with excess numbering resources which will otherwise sit idle.⁴ If carriers can provide this service without incurring significant costs or inconvenience and administer it in a competitively neutral fashion, the MPUC should be given authority to require its use.

B. National uniformity must not be used as a delay tactic.

While national uniformity is a laudable goal, it cannot be used an excuse for preventing states that are ready now to act expeditiously, responsibly, and fairly to avoid the NPA exhaustion that is occurring with increasing frequency. Indeed, since the Commission's September 28, 1998 Memorandum Opinion and Order and Order on Reconsideration in the Pennsylvania case⁵ 21 more area codes have gone into jeopardy; there are now a total of 65 codes in jeopardy, not to mention the countless others for which relief is being initiated. (Since 1995, 80 new area codes have been implemented and 135 have been declared in jeopardy. See, NANPA's April 22, 1999

⁴ Maine has a significant number of rate centers where there are fewer than three available thousand blocks but over 7000 unused numbers.

⁵ Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, NSD File No. L-97-42, CC Docket No. 96-98.

NANP Exhaust Study.) If the Industry does not act expeditiously and prudently, by the time it agrees with the FCC on a national solution, the entire NANP will have exhausted and it will be too late to implement any agreed-upon measures.

C. The MPUC intends to continue to work closely with NANPA, the Industry, and the FCC to ensure that any conservation measures implemented in Maine do not compromise national numbering policies.

Since NANPA first contacted the MPUC a year ago regarding area code relief, the MPUC has been working cooperatively with NANPA, the FCC, and the Industry on many numbering issues. As discussed above, the actions taken thus far by the MPUC have been reasonable, responsible, consistent with national policies, and, most importantly, effective. Contrary to the Opposing Commenters' arguments, the MPUC has no interest in replacing NANPA or the FCC as the numbering administrator in Maine. Instead, the MPUC wants to continue to work closely with the FCC, NANPA, and the Industry to establish policies and standards which complement, not conflict with, both current and anticipated national numbering policies and protocols. The MPUC's sole goal is to facilitate the efficient utilization of numbering resources within the State of Maine.

III. MANY CARRIERS DO NOT VOLUNTARILY COMPLY WITH THE CURRENT GUIDELINES

The Opposing Commenters all agree that a numbering crisis exists yet argue that the MPUC has failed to present any facts which warrant a waiver of the policies which created the crisis. None of the Commenters is willing to assume responsibility for wasting a public resource or to admit that it does not comply with the current Central Office Code Administration Guidelines. The following facts, however, clearly reveal that

the Industry in general is not complying with its own policies and cannot be relied upon to police itself:

(1) The current overall fill rate for the 207 NPA is 35%; individual operating carrier fill rates range from 0.7% to 51%.

(2) Since January, three carriers who were not fully certified to provide service have requested multiple codes within the 207 NPA.

(3) Carriers have requested and implemented additional codes for rate centers where they already have sufficient numbering resources. For example, in 1998 a carrier with multiple codes in a rate center which had a 39% fill rate added another code. Even assuming a 100% growth rate for that wire center, there is no way the Months to Exhaust Worksheet could have shown that the carrier's inventory would exhaust within a year (the criterion for adding a new code under the Central Office Code Administration Guidelines). Another carrier, with a 5% fill rate in a particular wire center, recently added another code to the same wire center, wasting an additional 10,000 numbers. The MPUC has been powerless to stop these clear violations of the current Central Office Code Administration Guidelines.

(4) New entrants were ready to request as many as 75 more codes than they actually needed until the MPUC discussed number conservation issues with each company.

(5) Different divisions of one carrier recently requested duplicate codes in the same rate center. If the MPUC had not intervened and pointed out this inconsistency to the carrier, duplicative codes would have been assigned.

(6) Since last August, more than 14 codes have been assigned to carriers who are not fully authorized to provide service.

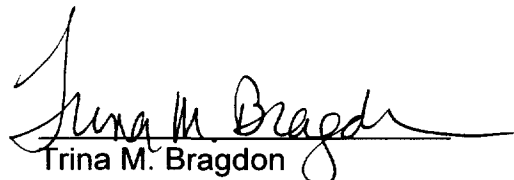
(7) A carrier has obtained over 50 codes in rate centers where it has no plans or authority (certificate or tariff) to provide local exchange service. (The carrier is currently using the codes to provide a foreign-exchange like service.)

IV. CONCLUSION

The Common Carrier Bureau must realistically assess the gravity of the current crisis and set a realistic timetable for implementation of a national solution. In the meantime, given the compelling reasons set forth above and in its Petition, the MPUC should be given the authority to implement number conservation measures rather than be forced to implement a new area code which will needlessly waste another 10 million numbers of the soon-to-be exhausted NANP. Accordingly, the MPUC respectfully requests that the Bureau grant its Petition.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION


Trina M. Bragdon
Staff Attorney

Dated: May 14, 1999

CERTIFICATE OF SERVICE

I, Trina M. Bragdon, certify that the Maine Public Utilities Commission's Reply Comments In Support of Its Petition for Delegation of Authority to Implement Number Conservation Measures was served, *via* first-class mail, on the persons on the attached service list.


Trina M. Bragdon

Dated: May 14, 1999